

CATHY L. GROVER
Claimant

IBP, INC.Respondent
Self-Insured

KANSAS WORKERS COMPENSATION FUND

ORDER

ISSUES

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Before the Appeals Board can address the merits of this appeal, it must first determine whether or not it has jurisdiction of the matter at this juncture of the proceeding. After a careful review of the record and the arguments of the parties contained in their briefs, the Appeals Board finds and concludes that it does not have jurisdiction to review this particular Order.

The Order of the Administrative Law Judge granted respondent's Motion to Quash the Deposition of Danielle Wallace. It also denied claimant's application to reopen claimant's terminal date. Thus, the Administrative Law Judge did not allow claimant to reopen the record and present the so-called rebuttal testimony. The order is interlocutory in nature and made during the litigation of this workers compensation case. It is not a final order that can be reviewed pursuant to K.S.A. 44-551, as amended. Neither is it an order on a matter that came before the Administrative Law Judge pursuant to the preliminary hearing statute K.S.A. 44-534a, as amended, as preliminary hearing orders are limited to issues regarding the furnishing of medical treatment and payment of temporary total disability compensation. The order now before the Appeals Board pertains to an interlocutory matter, an evidentiary ruling, over which the administrative law judge has authority to adjudicate if called upon during a workers compensation proceeding. Also, in this instance, the Appeals Board declines to grant respondent's request for attorney fees as a sanction against claimant pursuant to K.S.A. 44-536a.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the application for review filed by the claimant herein should be, and is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of October 1996.

BOARD MEMBER PRO TEM

BOARD MEMBER

BOARD MEMBER

c: Diane F. Barger, Emporia, KS
Lawrence D. Greenbaum, Kansas City, KS
Tina M. Sabag, Dakota City, NE
Derek J. Chappell, Ottawa, KS
Jeffrey K. Cooper, Topeka, KS
Floyd V. Palmer, Administrative Law Judge
Philip S. Harness, Director